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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,675	11/26/2003	Charles Cameron Brackett	133630IT/YOD GEMS:0237	8884
68174	7590	12/27/2007	EXAMINER	
GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			PATEL, NIRAV B	
			ART UNIT	PAPER NUMBER
			2135	
			MAIL DATE	DELIVERY MODE
			12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/723,675

Applicant(s)

BRACKETT ET AL.

Examiner

Nirav Patel

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-28.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): _____.
13. ☐ Other: _____.

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed 3/25/07 have been fully considered but they are not persuasive.

Regarding to the applicant argument to claim 1, 23, 26 that Hamid does not disclose the step of functionally logging into a receiving system. The Applicant is reminded that presented arguments in the remark is not considered unless stated expressly in the claim language. In this instance the claimed language recites "authenticating the user". Hamid's invention relates to communication between a portable hand operated biometric security device and a plurality of items. The fingerprint images are used individually or in combination to authorize access to a selected item (i.e. access the system). By recognizing the plurality of devices in the vicinity, the processor recognizes all functions accessible devices support via wireless control. The transparent platen carries a biometric sensor in the form of a capacitive array for sensing biometric characteristic of any of a person's digit tips. Upon the results of the comparison between the characterization data and templates relating to a same fingertip, if a match exists, the further processor identifies the user and initiates transmission of an authorization signal toward the processor, which sends a transmission signal through the output port and further, provides access to the device (i.e. logging the user into the system) [Fig. 5, 6, col. 5 lines 1-30, col. 7 lines 13-30, col. 6 lines 41-67]. Therefore, Hamid teaches the claim limitation.

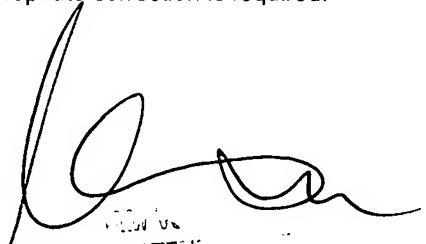
Regarding to the applicant argument to claim 15, 20, 25, 28 that Uchida does not disclose the claim limitation "authentication of the user at the wireless biometric device". However, the limitation presented in the remark is not stated expressly in the claims 15, 25, 28. The Applicant is reminded that presented arguments in the remark is not considered unless stated expressly in the claim language. Uchida's invention relates to an authentication executing device, a portable device for authentication. The portable terminal comprises a fingerprint sensor, a fingerprint feature extracting unit, a fingerprint checking unit. The fingerprint sensor of the portable terminal picks up the fingerprint's image when a finger of a user comes into contact with it, and converts the image data into digital image data suitable to be processed in the fingerprint feature extracting unit. The fingerprint feature extracting unit receives the fingerprint's image obtained by the fingerprint sensor and executes the processing of extracting the feature for use in fingerprint identification from the same image. The fingerprint checking unit receives the fingerprint feature S obtained from the fingerprint a user entered this time and receives a pair of the fingerprint feature F information having been stored in the user inherent information storing unit. The fingerprint checking unit compares the fingerprint feature information F with the fingerprint feature S obtained from the fingerprint entered by the user. By comparing the score, the fingerprint checking unit judges whether the user giving the fingerprint information is the identical to the registered user or not [Fig. 1, 2, col. 7 lines 40-60, col. 8 lines 13-16, 58-67, col. 9 lines 1-12], and thus, Uchida teaches the authentication at the portable terminal and therefore, teaches the argued limitation.

Regarding to the applicant argument to USC 103 (a) rejection, the examiner recognizes that obviousness can also be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ 2nd 1941 (Fed. Cir 1992). In this case, the combination of Hamid and Uchida teach the claimed subject matter and the combination is sufficient.

The Applicant is reminded that additional modification to clarify the claimed language is necessary for further consideration and distinction from the prior art.

Regarding to the applicant argument to USC 101 rejection, the claim limitation still do not provide an explicit (inter) relationship between the computer readable medium having computer executable instructions and a technological art, environment or machine that is required for the claims to be statutory. That is, the claimed limitation needs to explicitly show functional relationship between the stored executable instructions and a computer as part of the computing process performed by the computer. Appropriate correction is required.

For the above reasons, it is believed that the rejections should be sustained.



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